

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
July 12, 2016 - 9:00 A.M.

PRESENT: COMMISSIONER LARRY A. ELLERTSON, CHAIR
COMMISSIONER WILLIAM C. LEE, VICE-CHAIR
COMMISSIONER GREG GRAVES

ALSO PRESENT:

David Shawcroft, Chief Deputy Attorney
Dianne Orcutt, Deputy Attorney
Paul Jones, Deputy Attorney
Michelle Araujo, Commission Office
Lisa K. Nielson, Commission Office
Brian Voeks, Commission Office
Rebecca Martell, Children's Justice Center
Robert Baxter, Utah County Purchasing Manager
Bryan E. Thompson, County Clerk/Auditor
Bryce Armstrong, Community Development
Peggy Kelsey, Community Development
Joshua Ivie, Community Development
Jack Snow, Utah County Fire Marshall
Burt Garfield, Assessor's Office
Ralph Clegg, Health Department Exec. Director
Bryce C. Larsen, Utah County Health Department
Patty Cross, Utah County Health Department
Richard Nance, Drug&AlcoholPrevention&Treatment
RobertJohnson,Drug&AlcoholPrevention&Treatment

Lana Jensen, Utah County Personnel Director
Andrea Allen, Utah County Recorder's Office
Dalene Higgins, Utah County Sheriff's Office
Mike Forshee, Utah County Sheriff's Office
Darin Durfey, Utah County Sheriff's Office
Kim T. Jackson, Utah County Treasurer
Jamie Evans, Evans Grader & Paving Company
Mary Ann Wolz, Evans Grader & Paving Company
Garrick Hall, Utah Farm Bureau
Dave Jackson, FirstWest Benefit Solutions
Leon Van Sickle, VanCon
Nathan Ivie, -No further information given-
David O. Jeffs, -No further information given-
Randy Kester, -No further information given-
Elizabeth Robertson, -No further information given-
Katie England, The Daily Herald
Jessica Miller, The Salt Lake Tribune
Mike Stansfield, Fairways Media
Renée Caron, Clerk/Auditor Administrative Assistant

Commissioner Ellertson called the meeting to order at 9:00 A.M. and welcomed those present. The following matters were discussed:

PRAYER/READING/THOUGHT: Mike Stansfield, Fairways Media
PLEDGE OF ALLEGIANCE: Mary Ann Wolz, Evans Grader & Paving Company

The commissioners chose to open the Public Hearing before recognizing the Utah County Employee of the Month.

PUBLIC HEARING

PUBLIC HEARING TO CONSIDER APPROVAL OF THE PROPOSED KAY AGRICULTURE PROTECTION AREA APPLICATION WITH THE MODIFICATION REQUESTS TO EXCLUDE ROAD RIGHTS-OF-WAY AND CONSIDER THE STEELE MODIFICATION REQUEST; APPROXIMATELY 111.038 ACRES LOCATED IN SECTIONS 2 & 3, T10S, R1E, IN THE WEST SANTAQUIN AREA OF UNINCORPORATED UTAH COUNTY

(Track A, 01:57)

Peggy Kelsey of the Utah County Community Development Office presented maps of the proposed Kay Agriculture Protection Area, which consists of seven parcels to make up 111 acres. She mentioned several existing agriculture protection areas surround this proposal. The property is in crop production and cattle grazing. Commissioner

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Ellertson asked about access to the home and Ms. Kelsey pointed out 14000 South. The Utah County Engineer has reviewed the proposal and is asking for the 56-foot road right-of-way for 14000 South be excluded from the protection area, as well as a small overlapping section from the center line of Highway 6 to the existing fence line that is not being utilized by the applicants. Ms. Kelsey explained a letter of protest was also submitted by a Mr. Steele who owns property near the proposed area which is currently used for cattle grazing; Mr. Steele's only access to that property is 14000 South, so he is requesting some road and railroad right-of-way be excluded. Ms. Kelsey also mentioned that Santaquin City Assistant City Manager Dennis Marker had attended a previous meeting and represented the city as being in support of the agricultural protection area, which the city plans to eventually annex.

(Track A, 06:53)

Peggy Kelsey noted the Utah County Agriculture Protection Board recommended approval of the protection area with a 4-0 vote, with the stipulations Ms. Kelsey pointed out for exclusions from fence line to fence line along 14000 South. The Utah County Planning Commission voted 3-1 to exclude the full 56-foot right-of-way, or more specifically from center line to 28-feet because of the adjoining land which is not requesting to be in the protection area. Ms. Kelsey reviewed the fence lines, maps, plowing, and a gate with the commissioners.

(Track A, 12:13)

Randy Kessler, an attorney based in Provo, came forward as representative for the applicant: the Kay family. He stated agriculture protection was designed specifically for this type of property and purpose. Mr. Kessler said there is no current plan that would justify the county's desire to exclude 56-feet from the agriculture protection area; the road has been there since 1907 at approximately 30 feet. Commissioners Ellertson and Graves commented on road use, and Mr. Kessler noted Santaquin has not indicated any interest in the road that ends at the railroad track. He pointed out Mr. Steel actually submitted and then withdrew an annexation application for Santaquin City. Commissioner Lee suggested a definition of '16 feet from center line on either side of the road for total of 32 feet,' rather than the variable fence line. Commissioner Graves noted it is important not to cut off access for Mr. Steele. Commissioner Ellertson mentioned a letter from Santaquin City about a business park development, and Peggy Kelsey addressed potential road development.

(Track A, 17:34)

Alan Steele came forward. Mr. Steele explained he owns the property at the end of the road in question, and has been in the process of annexing into Santaquin City for several months. He noted that while the Kay family has constitutional property rights, Mr. Steel thinks they are attempting to block his secondary access to his land through this agriculture protection area. Mr. Steele and Commissioner Ellertson reviewed the maps and discussed access. Mr. Steele pointed out Santaquin City has plans for a business park, and described the location in relation to his land and the property belonging to the Kay family. Mr. Steele said a 56-foot right-of-way will be needed for utilities and access. Utah County Public Works Director Richard Nielson, Mr. Steele, and the commissioners discussed the right-of-way, a gate, a fenced area, and a trail currently under litigation. Mr. Steele noted this is a family affair as he and the applicants are all cousins.

(Track A, 24:47)

Alan Steele and the commissioners discussed access and potential future development by Santaquin City. Mr. Steele mentioned that he has been approved to build housing in Utah County if his annexation into Santaquin is not approved. Peggy Kelsey pointed out the land is within an RA-5 Zone, so one home would be allowed on five acres after improving the road. Mr. Steele talked about his family, and Utah County Civil Division Chief Deputy Attorney David Shawcroft addressed road width. Bryce Armstrong of the Utah County Community Development Office clarified there has been an application submitted for one house on the property, for which the county would require 250 feet of frontage on paved roads. Exceptions can be granted for roads that existed on county systems before 1975 as long as they meet gravel standards set by the Public Works Department.

(Track A, 29:58)

Utah County Deputy Attorney Robert Moore clarified the timeline of the overlapping processes: Alan Steele applied for annexation into Santaquin City before the Kay family submitted an agricultural protection area application to Utah County. The Kay family protested Mr. Steele's city annexation application. Santaquin City has emailed Mr. Moore, confirming their interest in annexing Mr. Steele's property; the protest will likely be heard by the Utah

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County Boundary Commission next month. Mr. Moore pointed out that whether or not the commissioners choose to exclude the 56-foot right-of-way from the agricultural protection area, Mr. Steele will need to acquire more property. Mr. Moore discussed eminent domain, condemnation, and other property rights with the commissioners, with Mr. Moore noting that the Kay family and Mr. Steele will eventually have to work together for the property acquisition.

(Track A, 35:25)

The Kay family representative, attorney Randy Kessler, returned to the stand to state his client is being painted to look like ‘the bad guy,’ but all they are trying to do is get agricultural protection for their farm. The Kay family does not want to be encroached upon by development. There are many plans for what might happen, but there are no guarantees – Mr. Steele himself withdrew his petition. Commissioner Ellertson asked whether the Kay family would be agreeable to waiving agricultural protection on the wider right-of-way if needed for development in the future, should the Board choose to approve the smaller exclusion today. Commissioner Ellertson noted the other option would be to exclude the full road portion. Commissioner Lee countered it would be too difficult to predict the circumstances for that situation, and the Board discussed means for potential negotiations with Mr. Kessler. They continued to review the maps and roadways with fence lines.

(Track A, 42:42)

Alan Steele stated for the record that the Santaquin City annexation is still in process, and commented on the center line of the road compared to the fence line and his westbound access to the land. Mr. Steele stated his full name is Alan Kay Steele, repeating “we are cousins” as his mother was a ‘Kay’ and it is not just the applicant’s farm. He reiterated this is a family affair, and Commissioner Graves noted that while it is nice to have some history, the private matters do not weigh upon the decision the Board must make for the agricultural protection area. Mr. Steele summarized utilities have been put in on the road, and the center line has been defined. Randy Kessler for the Kay family replied that his client did not push the road out, nor did they direct the engineering company to move any fence or corral.

(Track A, 46:09)

Garrick Hall of the Utah Farm Bureau came forward in favor of agricultural protection. He stated that while no one desires to get involved in a family dispute, the Utah Farm Bureau generally speaks in favor of agriculture protection and this land qualifies in every way for that approval. Mr. Hall expressed concern over the proposed 56-foot right-of-way exclusion, as he considers that to be excessive. With no other comments presented from the audience, Commissioner Ellertson closed the Public Hearing.

The Board moved on to discussion of the posted agenda, choosing to address the Consent Agenda items before recognizing the Utah County Employee of the Month (as he had briefly stepped out of the room and needed to be called back).

CONSENT AGENDA

(Track B, 00:01)

1. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AMENDMENT NO. 3 TO AGREEMENT 2015-446 (STATE CONTRACT 160227) WITH THE STATE OF UTAH FOR FY 2015-20 BASIC FUNDING FOR THE UTAH COUNTY CHILDREN’S JUSTICE CENTER**
2. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A CONTRACT WITH THE STATE OF UTAH FOR FY 2016-21, FUNDING FOR THE UTAH COUNTY CHILDREN’S JUSTICE CENTER, FORENSIC INTERVIEW PROGRAM**
3. **ACCEPT THE ANNUAL 3% PRICE INCREASE WITH KONE ELEVATORS PER THE TERMS OF AGREEMENT NO. 2013-390; THE ANNUAL PRICE HAS INCREASED FROM \$25,200 IN 2013 TO \$27,537 EFFECTIVE JUNE 1, 2016**

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4. ACCEPT GRANT AWARD FROM UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE FOR THE JRI CPIP GRANT

The Board requested Consent Agenda Item No. 4 be moved to the Regular Agenda for discussion.
PULLED TO REGULAR

5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO ENTER INTO THE DISCRETIONARY ASSET MANAGEMENT AGREEMENT AND ADDENDUM I WITH MORETON ASSET MANAGEMENT, INC. AND THE WELLS FARGO BANK N.A. CUSTODY AGREEMENT, AND SIGN THE INVESTMENT POLICY STATEMENT, THE CUSTOMER INFORMATION QUESTIONNAIRE, THE ACCESS TO ONLINE REPORTING SYSTEM, THE PRIVACY PLEDGE AND NOTIFICATION IF DESIRED, THE WELLS FARGO ACCOUNT AGREEMENT DOCUMENTATION, AUTHORIZED AGENTS DIRECTION, AUTHORIZED SIGNERS CERTIFICATION, AND THE WELLS FARGO INSTITUTIONAL RETIREMENT & TRUST OPERATIONAL ACCOUNT SETUP DOCUMENTATION

6. APPROVE REDUCING THE PENALTY IN THE AMOUNTS LISTED FOR THE ATTACHED PERSONAL PROPERTY ACCOUNTS, HAVING BEEN IDENTIFIED AS MEETING THE QUALIFICATIONS UNDER ORDINANCE NO. 2010-4 AND RESOLUTION NO. 2011-64 OF THE UTAH COUNTY CODE

7. RATIFICATION OF PAYROLL FOR PAY PERIOD 14

8. RATIFICATION OF WARRANT REGISTER SUMMARY

Consent Agenda Item Nos. 1 through 3, and 5 through 8, were approved as written. Commissioner Ellertson recommended the following Regular Agenda items be moved to Consent:

1. APPROVE THE MINUTES OF THE JUNE 7, 2016 COMMISSION MEETING

2. SELECTION OF EMPLOYEE BENEFITS BROKER-CONSULTANT SUBJECT TO EXECUTION OF AN AGREEMENT ACCEPTABLE TO UTAH COUNTY

The Board requested Regular Agenda Item No. 2 be stricken from the agenda.
STRICKEN

3. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A CREDIT APPLICATION WITH THE KROGER COMPANY FOR SMITH'S FOOD AND DRUG

4. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A PRICING AND SERVICE AGREEMENT WITH COLUMBUS SECURE DOCUMENT SOLUTIONS TO PROVIDE SHREDDING CONTAINERS IN THE AUDITOR'S OFFICE, ASSESSOR'S OFFICE, ELECTIONS, ENVIRONMENTAL HEALTH AND THE PATROL DIVISION

6. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE FY2016 MINIMUM PERFORMANCE STANDARDS AMENDMENT NO. 1 TO AGREEMENT NO. 2015-470 WITH THE UTAH DEPARTMENT OF HEALTH

7. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN A RENEWAL AGREEMENT WITH THE UTAH DEPARTMENT OF HEALTH FOR ADDITIONAL FUNDING TO MAINTAIN THE INJURY AND VIOLENCE PREVENTION PROGRAM IN UTAH COUNTY

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8. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AMENDMENT NO. 4 TO AGREEMENT NO. 2012-423 (STATE CONTRACT 130195) WITH THE UTAH DEPARTMENT OF HEALTH, AMENDING THE MEDICAID CONTRACTED AMOUNT AND PAYMENT METHODOLOGY**

The Board requested Regular Agenda Item No. 8 be stricken from the agenda.

STRICKEN

10. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH SAN JUAN MENTAL HEALTH/SUBSTANCE ABUSE SPECIAL SERVICE DISTRICT TO PROMOTE ACCESS TO SPECIALITY RESIDENTIAL TREATMENT FOR FEMALE CLIENTS**
11. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AMENDMENT NO. 4 TO AGREEMENT NO. 2012-423 (STATE CONTRACT 130195) WITH THE UTAH DEPARTMENT OF HEALTH, AMENDING THE MEDICAID CONTRACTED AMOUNT, PAYMENT METHODOLOGY, AND EXTENDING THE CONTRACT TO OCTOBER 31, 2016**
12. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE FY2017 SAFG GRANT APPLICATION**
13. **APPROVE AN AMENDMENT TO INMATE PHONE SERVICES AGREEMENT NO. 2015-559 WITH SECURUS TECHNOLOGIES, INC.**
14. **APPROVE A MOUNTAINLAND ASSOCIATION OF GOVERNMENTS UTAH COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT AWARD UP TO \$12,500.00 TO COMMUNITY ACTION SERVICES AND FOOD BANK FOR THE HOME BUYER AND FINANCIAL LITERACY PROGRAM**

ACTIONS TAKEN

Consent Agenda Item Nos. 1, 2, and 5 were approved and authorized; No. 3 was **accepted**; No. 4 was **tabled** for further discussion; No. 6 was **approved**; and Nos. 7 and 8 were **ratified**. **Regular Agenda Item Nos. 1, 13, and 14** were **approved**; Nos. 2 and 8 were **stricken** from the agenda; and Nos. 3, 4, 6, 7, 10, 11, and 12 were **approved and authorized**.

AGREEMENT NOS.: 2016-487, 2016-488, 2016-489, 2016-490, 2016-491, 2016-492, 2016-493, 2016-494, 2016-495, 2016-496, 2016-497, 2016-498, 2016-499 and 2016-500

EMPLOYEE OF THE MONTH

(Track B, 02:57)

RECOGNITION OF THE UTAH COUNTY EMPLOYEE OF THE MONTH FOR JULY 2016

Brian Manning of the Utah County Recorder's Office was recognized as the July 2016 Employee of the Month.

The Board moved on to discussion of the remaining posted agenda items.

REGULAR AGENDA

(PULLED FROM CONSENT)

4. ACCEPT GRANT AWARD FROM UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE FOR THE JRI CPIP GRANT

(Track B, 09:18)

Dalene Higgins of the Utah County Sheriff's Office explained the only associated paperwork for this agenda item is the grant award letter from the Utah Commission on Criminal and Juvenile Justice – no signature is needed from the Board.

Commissioner Lee made the motion to accept the grant award from the Utah Commission on Criminal and Juvenile Justice for the JRI CPIP Grant as outlined in Consent Agenda Item No. 4. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

AGREEMENT NO. 2016-501

5. APPROVE, MODIFY AND APPROVE, OR REJECT THE CREATION OF THE PROPOSED KAY AGRICULTURE PROTECTION AREA APPLICATION WITH THE MODIFICATION REQUESTS TO EXCLUDE ROAD RIGHTS-OF-WAY AND THE STEELE MODIFICATION REQUEST FOR APPROXIMATELY 111.038 ACRES LOCATED IN SECTIONS 2 & 3, T10S, R1E, IN THE WEST SANTAQUIN AREA OF UNINCORPORATED UTAH COUNTY; AND IF APPROVED, SIGN THE 'NOTICE OF CREATION' AND 'FINDINGS OF FACT' DOCUMENTS

(Track B, 10:16)

Commissioner Graves and Utah County Public Works Director Richard Nielson discussed a section marker and fence. Mr. Nielson explained the 56-foot or 32-foot right-of-way would be established by the Utah County Surveyor's Office finding the approximate center line of the road and taking current traffic and curb and gutter into consideration. Mr. Nielson noted the fence may or may not play into that decision. Commissioner Ellertson pointed out the proposed agriculture protection area includes the questionable area of the corral, and the commissioners discussed the center line being based on travel corridors.

(Track B, 14:40)

Bryce Armstrong of the Utah County Community Development Office came forward to address building permits and development within agriculture protection areas. Commissioner Graves acknowledged both the applicant and the protestor have property rights. Commissioner Ellertson suggested it is possible to respect the rights of everyone by having the property owner confirm they will not use the protection area to block use of the road if needed in the future; that portion can be eliminated from the agriculture protection area. Commissioner Lee countered that would impact anyone who inherits the land, and he is not in favor of that type of action because the property owner should be allowed to act in their best interest within their rights without the government interfering. Commissioner Ellertson responded the property owners would still have to acquire their own right-of-way – his suggestion would be in place as a last resort in the negotiation process. Commissioner Lee stated the farmers should have the strongest negotiating tools, and Commissioner Graves pointed out this case will likely go to court whatever the Board decides. Commissioners Ellertson and Lee debated the fairness of private agriculture protection weighed against their responsibility to protect the broader public citizenship, and the task of creating equal opportunities. Commissioner Lee reiterated his concerns over government dictating negotiating standards for private citizens. Commissioner Ellertson repeated that he is in favor of this agricultural protection area if the applicant would confirm they do not intend to block future development, which the owner has not been willing to say at this point – that is a warning sign the applicant is not seeking to 'play fair.'

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(Track B, 21:43)

Commissioner Graves noted the county's new requirement for 56-foot right-of-ways have changed the way people anticipate their land use. The Kay family has owned this land for over a century, and Commissioner Graves does not want to limit anyone's use. Commissioner Ellertson repeated the applicant and protestor will still have to negotiate for the right-of-way at fair market value, and that agricultural protection is important. The three commissioners continued to discuss the issue and Alan Steele approached the bench to reviewed the Santaquin City proposed maps with the Board.

(Track B, 25:35)

Commissioner Graves declared his intent to make a motion that would enact a 56-foot right-of-way from the agriculture protection area. Utah County Civil Division Chief Deputy Attorney David Shawcroft supplied the wording for the motion, which Commissioner Graves echoed. Commissioner Graves explained this would allow future secondary access for an elementary school.

Commissioner Graves made the motion to approve the creation of the proposed Kay Agriculture Protection Area application with the modification requests to exclude road rights-of-way and the Steele modification request for approximately 111.038 acres in the West Santaquin area of unincorporated Utah County as detailed in Regular Agenda Item No. 5.

Because there was lack of a second, Commissioner Ellertson briefly suspended Robert's Rules of Order for the purpose of seconding this motion.

The motion was seconded by Commissioner Ellertson, and discussion continued.

(Track B, 26:40)

Commissioner Lee clarified for the record that the county will be going 28 feet from the center line as determined by the County Engineer and County Surveyor's Office, and Commissioners Graves and Ellertson confirmed.

The motion to approve the creation of the proposed Kay Agriculture Protection Area application with the modification requests to exclude road rights-of-way and the Steele modification request for approximately 111.038 acres in the West Santaquin area of unincorporated Utah County, made by Commissioner Graves and seconded by Commissioner Ellertson, carried with the following vote:

**AYE: Larry A. Ellertson
Greg Graves
NAY: William C. Lee**

AGREEMENT NO. 2016-502

**Please refer to the final page of these minutes for additional notations.*

9. ACCEPT AND APPROVE AMENDMENT NO. 3 TO AGREEMENT NO. 2015-421 WITH THE STATE OF UTAH DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH, AMENDING THE ALLOCATION FOR SFY 2016

(Track B, 28:00)

Commissioner Ellertson mentioned needing an account number for this agreement, and wanting to make sure the county match is included in the budget. Utah County Clerk/Auditor Bryan E. Thompson noted a budget transfer was made, and Deputy Director of Finance Robert Johnson of the Utah County Department of Drug and Alcohol Prevention and Treatment confirmed that the grant match obligations have been satisfied and even exceeded.

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Commissioner Graves made the motion to accept Amendment No. 3 to Agreement No. 2015-421 with the State of Utah Division of Substance Abuse and Mental Health as identified in Regular Agenda Item No. 9. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

AGREEMENT NO. 2016-503

15. GRANT OR DENY THE REQUEST BY JAMIE EVANS FOR A FURTHER HEARING REGARDING THE TAX SALE PROTEST OF PARCEL SERIAL NUMBER 98:110:0151 AS ADDRESSED ON JUNE 28, 2016

(Track B, 30:27)

Utah County Deputy Attorney Paul Jones suggested the commissioners consider this item as an extension of the June 28, 2016 hearing. Commissioner Ellertson asked whether additional information provided since then should change the decision by the Board, and Mr. Jones summarized Jamie Evans has alleged the lienholder – Four Seas Investment Company – sold their interest in the property. Mr. Jones and Commissioner Graves discussed the potential impact such a sale would have on the Board’s previous decision to approve a Tax Sale Protest filed by Steven C Turley. Mr. Jones pointed out that if Four Seas did sell their interest, and that new interest has not been recorded, the county would not be obligated to provide notice to that third party.

Commissioner Graves made the motion to grant a further hearing regarding the Tax Sale Protest of Parcel Serial Number 98:110:0151 as stated in Regular Agenda Item No. 15. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

OPENED FOR DISCUSSION

16. APPROVE THE FINDINGS OF FACT, CONCLUSION OF LAW, AND DECISION REGARDING THE TAX SALE PROTEST FILED BY STEVEN C TURLEY, RELATED TO PARCEL SERIAL NO. 98:110:0151; REFERENCE AGREEMENT NO. 2016-470 (Continued from the July 5, 2016 Commission meeting)

(Track B, 35:25)

Steven C Turley came forward and confirmed for Commissioner Ellertson he is aware of the information presented by Jamie Evans. Mr. Turley provided the Board with a notarized statement from David Close, a general partner of Four Seas Investments Company, declaring Four Seas has not delivered or recorded the assignment of this trust deed which was on the public record; until such time as those documents are fully executed, Four Seas Investment Company maintains all interest in the trust deed and the associated debt.

(Track B, 39:12)

David Jeffs, representative for Jamie Evans, explained a ‘Leon VanSickle’ had a conversation with David Close following the June 28, 2016 Commission meeting wherein it was indicated the note had been paid off and the check was already cleared. Mr. Evans had also spoken with Melvin Close, a general partner of Four Seas Investments Company, who also confirmed the company had no further interest since the note had been paid off. Mr. Jeffs talked about the difference between interest being paid off, or assigned. Mr. Jeffs explained how the timing of the payment and the timing of the notice relate to the company’s basis to protest the tax sale. He reminded the Board it was determined at the last meeting Provo Canyon Mining Company received appropriate notice of the sale. The only entity which potentially did not receive notice was Four Seas Investments Company, which is why it is important to determine whether or not Four Seas actually had interest or claim at the time of protest.

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(Track B, 44:11)

Steven C Turley noted he has been accused of saying untrue things, and hopes that is due to miscommunications; he expressed feeling defensive. Mr. Turley returned to the stand with documents to answer the questions posed by David Jeffs, specifically stating there has not been a ‘payoff’ situation – there was a purchase of the note and a purchase of the rights associated to protest the tax sale. There was no change that happened prior to the auction. Arrangements were made through another entity to purchase the note from Four Seas Investment Company following the sale, for the sake of preserving the property rights. Mr. Turley emphasized that the note and all associated rights is in the process of being assigned to another entity, but the transaction is not yet complete. Mr. Turley summarized notice of the tax sale was not given to Four Seas Investment Company prior to the auction, giving them the right to protest the sale, and the investment company’s successor is protesting the sale as well.

(Track B, 49:10)

Steven C Turley went on to explain the difference between paying off the note and assigning the note. He reiterated the fact that Four Seas Investment Company did have an interest, and still have an interest, in the property, and they were not notified of the tax sale. Mr. Turley mentioned other companies which could be deemed as having vested interests which also did not receive notice. David Jeffs countered that none of the signed statements presented by Mr. Turley provide a payment date; Mr. Jeffs contended that payment has been made, whether or not the assignment was completed. Furthermore, Hart Mountain is claiming to be a successor in interest on this parcel but did not sign the protest alongside Provo Canyon Mining Company and Four Seas Investment Company. Mr. Jeffs pointed out that Mr. Turley did not give any indication at the previous meeting Hart Mountain would be acquiring the rights from Four Seas Investment Company.

(Track B, 54:05)

David Jeffs summarized the Board is not being provided all of the information necessary in order to make a decision on whether or not a protest was appropriately filed, and whether the sale should be validated. He and the commissioners discussed the general process of property transfers. Mr. Jeffs reiterated if Four Seas Investment Company was paid prior to the protest, the company has waived the rights to protest the sale. Steven C Turley stated he is insulted that Mr. Jeffs is accusing Mr. Turley of fraud. Discussion continued in this vein for some time between Mr. Jeffs, Mr. Turley, the commissioners, Leon Vansickle, and Utah County Deputy Attorney Paul Jones, until Commissioner Graves made the motion to continue this item to the next meeting of the Board to be held on August 2, 2016.

(Track B, 1:15:19)

Commissioner Graves made the motion to continue Regular Agenda Item No. 16 regarding the Findings of Fact, Conclusion of Law, and Decision regarding the Tax Sale Protest filed by Steven C Turley, related to Parcel Serial No. 98:110:0151 for three weeks to the August 2, 2016 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

CONTINUED TO AUGUST 2, 2016

The Board also addressed Regular Agenda Item Nos. 17 and 18 simultaneously, as they are directly related.

(Track B, 1:15:32)

- 17. APPROVE THE FINDINGS OF FACT, CONCLUSION OF LAW, AND DECISION REGARDING THE TAX SALE PROTEST FILED BY STEVEN C TURLEY, RELATED TO PARCEL SERIAL NO. 35:506:0001; REFERENCE AGREEMENT NO. 2016-468 (Continued from the July 5, 2016 Commission meeting)**

AGREEMENT NO. 2016-504

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18. APPROVE THE FINDINGS OF FACT, CONCLUSION OF LAW, AND DECISION REGARDING THE TAX SALE PROTEST FILED BY STEVEN C TURLEY, RELATED TO PARCEL SERIAL NO. 35:506:0002; REFERENCE AGREEMENT NO. 2016-469 *(Continued from the July 5, 2016 Commission meeting)*

AGREEMENT NO. 2016-505

Commissioner Graves made the motion to approve the Findings of Fact, Conclusions of Law, and Decisions regarding tax sale protests filed by Steven C Turley on Parcel Serial Nos. 35:506:0001 and 35:506:0002 as specified in Regular Agenda Item Nos. 17 and 18. The motion was seconded by Commissioner Lee and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

19. ADOPT AN ORDINANCE AMENDING CHAPTER 9 OF THE UTAH COUNTY CODE RELATING TO FIRE PREVENTION AND PROTECTION *(Continued from the July 5, 2016 Commission meeting)*
(Track B, 1:16:10)

Utah County Deputy Attorney Robert J. Moore summarized this ordinance is to simply ‘clean up’ the Fire Code; the International Fire Code has been adopted by the State of Utah, and the county is adopting it in turn as well.

Commissioner Lee made the motion to adopt the ordinance amending Chapter 9 of the Utah County Code relating to Fire Prevention and Protection as identified in Regular Agenda Item No. 19. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

ORDINANCE NO. 2016-23

At this point, the commissioners determined which closed meetings would be necessary to set and which could be stricken from the Regular Agenda.

(Track B, 1:18:13)

20. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY, WATER RIGHTS, OR WATER SHARES *(Suggested for today’s date, at this location, following the completion of the Regular Agenda items)* *(Announce the vote of each Commissioner)*

STRICKEN

21. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE SALE OF REAL PROPERTY, WATER RIGHTS, OR WATER SHARES, PREVIOUSLY PUBLICLY NOTICED FOR SALE *(Suggested for today’s date, at this location, following the completion of the Regular Agenda items)* *(Announce the vote of each Commissioner)*

STRICKEN

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Commissioner Lee made the motion to strike Regular Agenda Item Nos. 20 and 21 to set dates, times, and locations for closed meetings for strategy sessions to discuss the purchase, exchange, or lease of real property, water rights, or water shares; and to discuss the sale of real property, water rights, or water shares. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

22. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS (*Suggested for today's date, at this location, following the completion of the Regular Agenda items*) (*Announce the vote of each Commissioner*)

Commissioner Lee made the motion to set a date, time, and location for a closed meeting to discuss the character, professional competence, or physical or mental health of an individual or individuals to follow the Regular Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

SET

23. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION (*Suggested for today's date, at this location, following the completion of the Regular Agenda items*) (*Announce the vote of each Commissioner*)

Commissioner Lee made the motion to set a date, time, and location for a closed meeting for a strategy session to discuss pending or reasonably imminent litigation to follow the Regular Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

There were no public comments and the meeting recessed at 11:07 A.M. to go into closed meetings, and Commissioner Ellertson excused himself at this time. The public meeting reconvened at 11:37 A.M., and Robert's Rules of Order were waived for the purpose of making motions.

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(Track C, 00:01)

Commissioner Graves made the motion to adjourn the July 12, 2016 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: William C. Lee
Greg Graves
NAY: None**

There being no further business nor public comment, the meeting adjourned at 11:37 A.M. The minutes of the July 12, 2016 Commission meeting were approved as transcribed on September 20, 2016.

LARRY A. ELLERTSON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor

***Regular Agenda Item No. 5:**

Upon review of these minutes during the September 20, 2016 meeting of the Board, the commissioners made several changes. Commissioner Lee asked for the record to include this statement on his behalf:

'I want to clarify my "nay" vote on Regular Agenda Item No. 5. I am a big supporter of the farming community here in Utah County, so my vote was not in opposition to creating the agriculture protection area requested by the Kay family. Rather, my vote was for even greater agriculture protection through stronger property rights. That is why I would have voted as the Utah County Agricultural Protection Advisory Board did, which was to grant the Kay application in full, excluding only the existing right-of-way.'

Commissioner Ellertson also added a statement for the record in response:

'I would like to add, from the other side of the issue, that the motion as passed is what was recommended by the Utah County Planning Commission. Commissioner Lee's note refers to the Agricultural Protection Board, but the Planning Commission actually voted 3-1 to recommend the 56-foot right-of-way, as discussed during the Public Hearing [in the second paragraph of the second page of these minutes].'

The suggested amendments are hereby included within the official record, having been reviewed and approved unanimously by all three members of the Board.

Copies available on the Utah County website at www.utahcounty.gov
Recorded by Renée Caron, Clerk/Auditor Administrative Assistant